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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/799,883 | 03/15/2004 | Kyong Jai Choi | 123045-05004603 | 8338 |
| 43569 | 7590 | 07/18/2006 | EXAMINER | |
| MAYER, BROWN, ROWE & MAW LLP 1909 K STREET, N.W. WASHINGTON, DC 20006 | | | GRAYSAY, TAMARA L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3636 | |

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/799,883

Applicant(s)

CHOI, KYONG JAI

Examiner

Tamara L. Graysay

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

The Office action mailed 01 June 2006 is withdrawn and the following non-final action on the merits is entered. To avoid unnecessary duplication, neither the Notice of Reference Cited (PTO-892) nor the foreign references attached to the previous Office action are being resent.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Applicant Admission (FIGS. 1-3) in view of Wallenstatter (6335356) and Aumann (US-5529823).

Claim 1: The Admission shown in FIGS. 1-3 of the present application discloses the use of a first and a second pole holding tape (11, 12) that are fixed to corner of a tent fabric (1) by means of sewing lines (21); the sewing lines (21) are treated with front waterproof tape (3) that covers the sewing lines at the interior or pole side of the holding tape.

The Admission depicts a pole holding strap (11) in FIG. 3. The strap (11) includes a surface to which a front or interior waterproof tape (3) can be attached as evidenced by the Admission where waterproof tape (3) is secured at the inside sewing line (21; see FIG. 3) of the pole holding strap. Therefore, the state of the art at the time of the invention was made includes a pole holding strap (11) attached to a waterproof tape (3)

and as depicted in prior art Admission FIG. 3. The Admission discloses using a material for the pole holding strap that attaches to a waterproof tape. However, the Admission is not explicit as to the material used for the first and second pole holding tapes.

Wallenstatter suggests using a waterproof-coated material for elements of a portable tent enclosure and a waterproof poncho. If the tent/poncho were waterproof, then the seams would have been waterproof.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Admission to include a waterproof member for at least a portions of the pole holding straps, such as suggested by Wallenstatter, in order to ensure a waterproof device and thereby aid in preventing water from entering the tent at the pole holding tape interior sewing line.

Further, with respect to the portion of the pole holding tape that is waterproof (mentioned in the previous paragraph) the Admission depicts two overlapping holding tapes connected at the seam. The examiner takes Official notice that the rigidity of a seam is inherently dependent upon the number of layer overlapped at the sewing lines. In order to provide a tent fabric that is folded more easily, one of ordinary skill in the fabric industry at the time the invention was made would have sought to reduce the overall thickness and rigidity of the tent seams and would have provided less layers at the seam by separating the ends of the holding strap by a third single thickness member that connects the holding tapes. Thus, dividing the holding tape into three sections, rather than two sections would have been obvious to one of ordinary skill in the art at the time

the invention was made in order to reduce the thickness of the tent seam thereby decreasing the rigidity of the seam.

Aumann depicts a waterproofing seam that is both front or sewing line protection and side or lateral sewing line protection (e.g., waterproofing tape (23) is applied over the sewing line (19) and the edge of the material (at the left side of FIG. 1). In particular, Aumann depicts (e.g., FIG. 1) lateral waterproofing (23) for a sewing line (19). The side or lateral seam waterproofing prevents penetration of an unwanted liquid, such as water, through the front sewing line and the side of the seam between two members (e.g., 13, 21).

It would have been further obvious to one of ordinary skill in the waterproofing art to modify the Admission and Wallenstatter combination to include a side or lateral waterproofing tape, such as suggested by Aumann, in order to prevent water from entering the tent at the side of the pole holding tape sewing line.

Response to Arguments

2. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection. However, to fully address the arguments presented in the communication filed 17 March 2006, as applicable to the above rejection, the following response is made.

Applicant argues that the combination fails to disclose, teach, or suggest
(1) a waterproof-coated member covered by a front waterproof tape and
(2) a side waterproof tape as recited in claim 1.

Art Unit: 3636

Applicant mentions (specification at 3:16-19) that there are two prior art device problems to be solved: (1) providing a surface that can be coated or to which waterproof tape can be attached; and (2) intercepting rainwater and moisture flowing into the tent through the sides of the sewing line. The problem is allegedly overcome by providing a waterproof material between the pole holding tapes, whereby the waterproof material is used as a connection or attachment point for waterproof tape over the sewing line and between the waterproof material and the adjacent tent fabric. In other words, applicant has modified the pole holding tape to include a portion that is capable of attachment to a waterproofing tape.

In response to Issue (1): The state of the art at the time of the invention was made includes a pole holding strap (11) attached to a waterproof tape (3) and as depicted in prior art Admission FIG. 3. The Admission discloses using a material for the pole holding strap that attaches to a waterproof tape. Further, if the waterproof tape cannot be fixed to the pole holding tapes as noted in the specification (3:16-17), then one of ordinary skill in the waterproofing art, having knowledge of known waterproofing materials, would have used a material that could be waterproofed at the sewing line.

In response to Issue (2): The level of skill in the waterproofing art includes knowledge of various structures that prevent water from penetrating a seam including fabric structures commonly waterproofed by avoiding a line for water to penetrate a seam using sealant and/or waterproofing cement and/or waterproofing tape which prevented penetration of water.

Applicant has not achieved any unexpected result by substituting a known material for the prior art material.

Art Unit: 3636

Conclusion

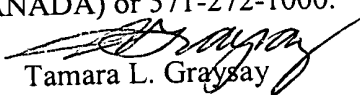
3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Spangrud (US-4483019) depicts a waterproof seam in waterproof material (30) that is sewn (48) and covered using a waterproof tape (50) at the front or interior of the sewing line (48).
- Smith (US-6364980) depicts a waterproof seam in waterproof material (30,21) that is sewn (26) and covered using a waterproof tape (33, 33') at the front or interior of the sewing line (26).
- Gatcomb (US-2988457) depicts a coated fabric that is both waterproof and attached to waterproof tape (strapping) using strapping cement.
- Wood (GB-2031107) teaches the use of a waterproof tape over a sewing line in waterproof material. Wood further teaches a waterproof seam formed by sewing, bridging, and tape stitched to each side followed by covering the sewing by a sealing ribbon or ribbons.
- Plihal (FR-2758692) teaches waterproofing a seam in FIG. 4 using a swellable ribbon (5) on the inner side of a fabric to waterproof a sewing line (3); and alternatively, in FIG. 2 a waterproof tape (4) attached over a sewing line (3).
- Kawakami (JP-61-47867) teaches a seam sealing structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is 571-272-6728. The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo, can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Tamara L. Graysay
Examiner
Art Unit 3636